

**Federal Personnel Manual System****FPM Letter 792-21**Published in advance  
of incorporation in FPM  
Chapter 792


RETAIN UNTIL SUPERSEDED

**SUBJECT:** Acquired Immune Deficiency Syndrome (AIDS)  
in the WorkplaceWashington, D. C. 20415  
April 24, 1991

Heads of Departments and Independent Establishments:

1. The Office of Personnel Management (OPM) issued guidance in March 1988 on Acquired Immune Deficiency Syndrome (AIDS) in the workplace. Since then, more sophisticated medical approaches to the treatment of AIDS and human immunodeficiency virus (HIV) infection prolong the lives of persons with AIDS or delay the onset of some infections for HIV-infected individuals. There is still no cure for AIDS but, due to advances in treatment, individuals with the infection are often able to remain in the workforce for longer periods of time. This development makes it even more imperative that there be informed, fair and compassionate personnel policies and practices in the workplace, especially among managers and supervisors who have responsibilities for day-to-day human resource management.
2. Attached is an update of FPM Bulletin 792-42, March 24, 1988. Our guidance remains the same with a continued emphasis on training for all employees, especially for supervisors, regarding the medical and personnel management aspects of AIDS/HIV infection. Due to the extensive availability and changing nature of information on AIDS, we have deleted the listing of pamphlets, posters, and audio-visual information which appeared in the 1988 guidance. However, current information may be requested from the agencies listed under section III.
3. OPM will continue to maintain a clearinghouse for agency AIDS policy statements and associated guidance. We ask that agencies send copies of any new or revised policies to:

Chief, Employee Health Services Branch  
U.S. Office of Personnel Management  
Room 7412  
1900 E Street, NW.  
Washington, DC 20415

  
Constance Berry Newman  
Director

Attachment

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**Inquiries:** Office of Employee and Labor Relations, Personnel Systems and  
Oversight Group, (202) 606-1269/ (FTS) 266-1269

**Code:** 792, Federal Employees Health and Counseling Programs

**Distribution:** Basic FPM

OPM FORM 652 6/82



ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HUMAN  
IMMUNODEFICIENCY VIRUS (HIV) IN THE WORKPLACE

GUIDELINES FOR AIDS/HIV INFORMATION AND EDUCATION  
AND FOR PERSONNEL MANAGEMENT ISSUES

Office of Personnel Management  
Office of Employee and Labor Relations

April 1991

Note: These guidelines were first published in March 1988 and distributed by FPM Bulletin 792-42, March 24, 1988. The republished guidelines contain no policy changes; some editorial changes have been made and Section III, AIDS INFORMATION SOURCES, has been updated.

## **AIDS IN THE WORKPLACE**

### **Introduction**

This information and guidance is designed to assist Federal agencies in establishing effective AIDS education programs and in fairly and effectively handling AIDS-related personnel situations in the workplace. In this guidance, the term AIDS is used to refer either to the general AIDS phenomenon or to clinically diagnosed AIDS as a medical condition. HIV (human immunodeficiency virus) is used when the discussion is referring to the range of medical conditions which HIV-infected persons might have (i.e., immunological and/or neurological impairment in early HIV infection to clinically diagnosed AIDS).

### **General Policy**

Guidelines issued by the Public Health Service's Centers for Disease Control (CDC) dealing with AIDS in the workplace state that "the kind of nonsexual person-to-person contact that generally occurs among workers and clients or consumers in the workplace does not pose a risk for transmission of [AIDS]." Therefore, HIV-infected employees should be allowed to continue working as long as they are able to maintain acceptable performance and do not pose a safety or health threat to themselves or others in the workplace. If performance or safety problems arise, agencies are encouraged to address them by applying existing Federal and agency personnel policies and practices. (See also paragraph I on page 6 which discusses the Public Health Service's guidelines for health-care workers.)

HIV infection can result in medical conditions which impair the employee's health and ability to perform safely and effectively. In these cases, agencies should treat HIV-infected employees in the same manner as employees who suffer from other serious illnesses. This means, for example, that employees may be granted sick leave or leave without pay when they are incapable of performing their duties or when they have medical appointments. In this regard, agencies are encouraged to consider accommodation of employees' AIDS-related conditions in the same manner as they would other medical conditions which warrant such consideration.

Also, there is no medical basis for employees refusing to work with such fellow employees or agency clients who are HIV-infected. Nevertheless, the concerns of these employees should be taken seriously and should be addressed with appropriate information and counseling. In addition, employees, such as health-care personnel, who may come into direct contact with the body fluids of persons having the AIDS virus, should be provided appropriate information and equipment to minimize the risks of such contact. (See also paragraph I on page 6.)

OPM encourages agencies to consider the following guidelines when establishing AIDS education programs and in carrying out their personnel management responsibilities.

### **I. AIDS INFORMATION AND EDUCATION PROGRAMS**

There are several important considerations in establishing effective AIDS information and education programs. The following guidance is intended to help agencies develop methods for establishing successful programs.

#### A. Timing and Scope of AIDS Information and Education Efforts

AIDS information and education programs are most effective if they begin before a problem situation arises relative to AIDS and employee concerns. Experience in the private sector has demonstrated that employees' level of receptivity to accurate information will be higher when management has a policy of open communications and when educational efforts are initiated before a problem situation occurs. Education and information should be of an ongoing nature. This approach will reassure employees of management's commitment to open communications and employees will receive updated information about AIDS. By providing AIDS information to all employees, agencies will enhance employees' understanding about the nature and transmission of the disease.

#### B. Educational Vehicles

Education and information efforts may be carried out in a variety of ways. Agency news bulletins, personnel management directives, meetings with employees, expert speakers and counselors, question and answer sessions, films and video-tapes, employee newsletters, union publications, fact sheets, pamphlets, and brochures are likely to be effective means of providing information to employees about AIDS. In addition, employees should be made aware of the National AIDS Hotline (1-800-342-AIDS or 1-800-344-SIDA in Spanish) as a source of confidential information.

#### C. Employee Assistance Programs

For employees who have personal concerns about AIDS, agency employee assistance programs (EAPs) can be an excellent source of information and counseling, and can provide referrals, as requested, to community testing and counseling services, treatment, and other resources. EAPs can also provide counseling to employees who have apprehensions regarding the communicability of the disease or other related concerns. Because EAPs are in a unique position to offer information and assistance, agencies are encouraged to establish AIDS information, counseling, and referral capabilities in their EAPs and to make employees and supervisors aware of available services. In addition, EAPs can be a good source of managerial/supervisory training on AIDS in the workplace. As with other services provided by the EAP, strict adherence to applicable privacy and confidentiality requirements must be observed when advising employees with AIDS-related concerns. In addition to services provided by the EAP, the agency's occupational health program, health unit, or medical staff should be prepared to assist employees seeking information and counseling on AIDS.

#### D. Training and Guidance for Managers and Supervisors

Supervisors and managers should be prepared to deal with employee concerns and other issues related to AIDS in the workplace. Agencies should consider, therefore, conducting ongoing training and education programs for their managers and supervisors on the medical and personnel management dimensions of AIDS. These programs can be used to educate managers and supervisors on the latest research on AIDS in the workplace, to provide advice on how to recognize and handle situations which arise in their organizations, and to convey the importance of maintaining the confidentiality of any medical and other information about employees' health status. In addition, managers and supervisors should be given a point of contact within the agency where they can call to obtain further information or to discuss situations which arise in their work units. Agencies should attempt to initiate training and guidance activities before problems occur.



### E. Sources of Information and Educational Materials

Considerable information about AIDS is available to Federal agencies. OPM encourages agencies to explore various sources of information and to keep abreast of the latest research on AIDS in the workplace. The U.S. Public Health Service (PHS) has developed much material on the medical and other aspects of AIDS. Information about AIDS can be obtained by requesting it from PHS offices or from the National AIDS Information Clearinghouse, P.O. Box 6003, Rockville, Maryland 20850; telephone (800) 458-5231. PHS offices are located throughout the country and can be contacted for information relating to AIDS. (See section III for a listing of PHS regional office locations.) In addition to the PHS, many communities have AIDS educational, advocacy, and treatment resources where agencies can get information.

## II. PERSONNEL MANAGEMENT ISSUES AND CONSIDERATIONS

When AIDS becomes a matter of concern in the workplace, a variety of personnel issues may arise. Basically, these issues should be addressed within the framework of existing procedures, guidance, statutes, case law, and regulations. Following is a brief discussion of AIDS-related issues which could arise in various personnel management areas, along with some basic guidance on how to approach and resolve such issues. Agencies are cautioned that, as with any complex personnel management matter, the resolution of a specific problem must be based on a thorough assessment of that problem and how it is affected by contemporary information and guidance about AIDS, current law and regulation bearing on the involved issue, and the agency's own policies and needs.

### A. Employees' Ability to Work

An HIV-infected employee may develop a variety of medical conditions. These conditions can range all the way from immunological and/or neurological impairment in early stages of HIV infection to clinically diagnosed AIDS. At some point, a concern may arise as to whether such an employee, given his or her medical condition, can perform the duties of the position in a safe and reliable manner. This concern will typically arise at a point when the HIV-infected employee suffers health problems which affect his or her ability to report for duty or perform. Also, in some situations the concern may stem from the results of a medical examination required by the employee's position. Under OPM's regulations in 5 C.F.R., Part 339, Medical Qualification Determinations, it is primarily the employee's responsibility to produce medical documentation regarding the extent to which a medical condition is affecting availability for duty or job performance. However, when the employee does not produce sufficient documentation to allow agency management to make an informed decision about the extent of the employee's capabilities, the agency may offer, and in some cases order, the employee to undergo a medical examination. Accurate and timely medical information will allow the agency to consider alternatives to keeping the employee in his or her position if there are serious questions about safe and reliable performance. It will also help determine whether the HIV-infected employee's medical condition is sufficiently disabling to entitle the employee to be considered for reasonable accommodation under the Rehabilitation Act of 1973 (29 U.S.C. § 794).

### B. Privacy and Confidentiality

Because of the nature of the disease, HIV-infected employees will have understandable concerns over confidentiality and privacy in connection with medical documentation and other information relating to their condition. Agencies should be aware that any medical documentation submitted to an agency for

the purposes of an employment decision and made part of the file pertaining to that decision becomes a "record" covered by the Privacy Act. The Privacy Act generally forbids agencies to disclose a record which the Act covers without the consent of the subject of the record. However, these records are available to agency officials who have a need to know the information for an appropriate management purpose. Officials who have access to such information are required to maintain the confidentiality of that information. In addition, supervisors, managers, and others included in making and implementing personnel management decisions involving employees with AIDS should strictly observe applicable privacy and confidentiality requirements.

#### C. Leave Administration

HIV-infected employees may request sick or annual leave or leave without pay to pursue medical care or to recuperate from the ill effects of their medical condition. In these situations, the agency should make its determination on whether to grant leave in the same manner as it would for other employees with medical conditions. In addition, HIV-infected employees should be advised that they may be eligible to participate in the agency's leave transfer or leave bank programs.

#### D. Changes in Work Assignment

Agencies considering changes such as job restructuring, detail, reassignment, or flexible scheduling for HIV-infected employees should do so in the same manner as they would for other employees whose medical conditions may affect the employee's ability to perform in a safe and reliable manner. In considering changes in work assignments, agencies should observe established policies governing qualification requirements, internal placement, and other staffing requirements.

#### E. Employee Conduct

There may be situations where fellow employees express reluctance or threaten refusal to work with HIV-infected employees. Such reluctance is often based on misinformation or lack of information about the transmission of HIV. There is, however, no known risk of transmission of HIV through normal workplace contacts, according to leading medical research. Nevertheless, OPM recognizes that the presence of such fears, if unaddressed in an appropriate and timely manner, can be disruptive to an organization. Usually an agency will be able to deal effectively with such situations through information, counseling, and other means. However, in situations where such measures do not solve the problem and where management determines that an employee's unwarranted threat or refusal to work with an HIV-infected employee is impeding or disrupting the organization's work, it should consider appropriate corrective or disciplinary action against the threatening or disruptive employee(s). In other situations, management may be faced with an HIV-infected employee who is having performance or conduct problems. Management should deal with these problems through appropriate counseling, remedial, and, if necessary, disciplinary measures. In pursuing appropriate action in these situations, management should be sensitive to the possible contribution of anxiety over the illness to work behavior and to the requirements of existing Federal and agency personnel policies, including any obligations the agency may have to consider reasonable accommodation of the HIV-infected employee.

#### F. Insurance

HIV-infected employees can continue their coverage under the Federal Employees Health Benefits (FEHB) Program and/or the Federal Employees' Group Life Insurance (FEGLI) Program in the same manner as other employees. Their continued participation in either or both of these programs would not be jeopardized solely because of their medical condition. The health benefits plans cannot exclude coverage for medically necessary health care services based on an individual's health status or a pre-existing condition. Similarly, the death benefits payable under the FEGLI Program are not cancellable solely because of the individual's current health status. However, any employee who is in a leave-without-pay (LWOP) status for 12 continuous months faces the statutory loss of FEHB and FEGLI coverage but has the privilege of conversion to a private policy without having to undergo a physical examination. Employees who lose FEHB coverage upon separation from Federal service may generally continue their FEHB coverage for up to 18 months by paying 102 percent of the full premium. They can then convert to a private policy without undergoing a physical. Employees who are seeking to cancel previous declinations and/or obtain additional levels of FEGLI coverage must prove to the satisfaction of the Office of Federal Employees' Group Life Insurance that they are in reasonably good health. Any employee exhibiting symptoms of any serious and life-threatening illness may be denied the request for additional coverage.

#### G. Disability Retirement

HIV-infected employees may be eligible for disability retirement if their medical condition warrants and if they have the requisite years of Federal service to qualify. OPM considers applications for disability retirement from employees with AIDS in the same manner as for other employees, focusing on the extent of the employee's incapacitation and ability to perform his or her assigned duties. OPM makes every effort to expedite any applications where the employee's illness is in an advanced stage and is life threatening.

#### H. Labor-Management Relations

AIDS in the workplace may be an appropriate area for cooperative labor-management activities, particularly with respect to providing employees education and information and alleviating AIDS-related problems that may emerge in the workplace. In addition, to the extent that an agency proposes AIDS-related policies or programs which would affect the working conditions of bargaining unit employees, unions must be accorded any rights they may have to bargain or be consulted as provided for under 5 U.S.C. Chapter 71.

#### I. Health and Safety Standards

In 1985, the CDC published guidelines relating to the prevention of HIV transmission in most workplace settings, CDC Recommendations for Preventing Transmission of Infection with [HIV] in the Workplace, 34 MMWR 681 (November 15, 1985). The CDC published specialized guidelines in 1987 relating to health-care workers (which in part updated the health-care worker provisions contained in the workplace guidelines), CDC Recommendations for Prevention of HIV Transmission in Health-Care Settings, 36 MMWR Supp. no. 2s (August 21, 1987). A supplement to this publication was released in 1988 as Update: Universal Precautions for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus and other Bloodborne Pathogens in Health Care Settings, 37 MMWR 24. As this update was released to clarify some specific issues, the 1987 publication should continue to be consulted for



general information and specific recommendations not addressed in the 1988 update. The Department of Health and Human Services (HHS) and the Occupational Safety and Health Administration (OSHA) of the Department of Labor have initiated a program to ensure compliance with safety and health guidelines and standards designed to protect health-care workers from bloodborne diseases, including AIDS. See Department of Labor/Department of Health and Human Services -- Joint Advisory Notice: Protection Against Occupational Exposure to Hepatitis B Virus (HBV) and Human Immunodeficiency Virus (HIV), 52 Fed. Reg. 41818 (October 30, 1987). The CDC and OSHA/HHS guidance is intended to increase the availability and use of educational information and personal protective equipment and to improve workplace practices bearing on the transmission of AIDS and other bloodborne diseases. OPM strongly encourages agencies, especially those with employees occupying health-care and related positions, to establish health and safety practices consistent with this guidance. Sources are available in OSHA to discuss the published guidelines. In addition to these guidelines, the Department of Labor has published proposed regulations on Occupational Exposure to Bloodborne Pathogens; Proposed Rule and Notice of Hearing, Federal Register 23042, dated May 30, 1989 which contain useful information on occupational exposure to HIV.

#### J. Blood Donations

One area of personnel management which agencies may overlook when considering AIDS policies and practices is employee blood donations. OPM joins the American Red Cross in urging agencies to encourage employees to consider donating blood. Under guidelines established by the American Red Cross, there is no risk of contracting AIDS from giving blood. However, fears associated with AIDS have contributed to a situation where many of the nation's blood banks are in short supply. This situation threatens the health status of the American public.

As part of its effort to educate the public so as to overcome these fears, the American Red Cross has produced a number of publications which address blood donations where AIDS is an issue. These publications are available through your local Red Cross chapter or by contacting the Red Cross National Headquarters AIDS Public Education Program (by writing to 1709 New York Ave., N.W., Suite 208 Washington, DC 20006 or by calling (202) 639-3223).

### III. AIDS INFORMATION SOURCES

#### A. Federal Government

##### 1. Department of Health and Human Services

U.S. Public Health Service  
Hubert H. Humphrey Building  
200 Independence Ave., SW.  
Washington, DC 20201

Lead agency in the distribution of AIDS/HIV information, both general and technical in nature. Many materials have been prepared by PHS and are available to the public free of charge through the National AIDS Information Clearinghouse. The Clearinghouse can be reached at:

National AIDS Information Clearinghouse  
P.O. Box 6003  
Rockville, MD 20850  
(800) 458-5231

In addition to all of the information available through the National AIDS Information Clearinghouse, there are some HHS publications that are available from resources other than the Clearinghouse.

The "AIDS Update," a periodic news bulletin, can be obtained from:

Office of Public Affairs  
Public Health Service  
Room 717-H  
200 Independence Ave, SW.  
Washington, DC 20201  
(202) 245-6867

The Morbidity and Mortality Weekly Report is prepared by the Centers for Disease Control, Atlanta, Georgia, and is available on a paid subscription basis from:

Superintendent of Documents  
U.S. Government Printing Office  
Washington, DC 20402  
(202) 783-3238

On the following page is a listing of addresses and telephone numbers of the Public Health Service Regional Health Administrators.

Public Health Service  
Regional Health Administrators

Region I

Connecticut, Maine, Massachusetts, New  
Hampshire, Rhode Island, Vermont

John F. Kennedy Federal Building  
Room 1400  
Boston, MA 02203  
(617) 565-1426 (FTS) 835-1426

Region II

New Jersey, New York, Puerto Rico, Virgin  
Islands

26 Federal Plaza, Room 3337  
New York, NY 10278  
(212/FTS) 264-2560

Region III

Delaware, District of Columbia, Maryland,  
Pennsylvania, Virginia, West Virginia

Gateway Building #1  
3535 Market Street  
Mailing Address: P.O. Box 13716  
Philadelphia, PA 19104  
(215/FTS) 596-6637

Region IV

Alabama, Florida, Georgia, Kentucky,  
Mississippi, North Carolina, South Carolina,  
Tennessee

101 Marietta Tower, Suite 1106  
Atlanta, GA 30323  
(404) 331-2316 (FTS) 841-2316

Region V

Illinois, Indiana, Michigan, Minnesota, Ohio,  
Wisconsin

105 West Adams Street  
17th Floor  
Chicago, IL 60603  
(312/FTS) 353-1385

Region VI

Arkansas, Louisiana, New Mexico, Oklahoma,  
Texas

1200 Main Tower Building  
Room 1800  
Dallas, TX 75202  
(214) 767-3879 (FTS) 729-3879

Region VII

Iowa, Kansas, Missouri, Nebraska

Federal Office Building  
601 East 12th Street, 5th Floor  
Kansas City, MO 64106  
(816) 426-3291 (FTS) 867-3291

Region VIII

Colorado, Montana, North Dakota, South  
Dakota, Utah, Wyoming

Federal Office Building  
1961 Stout Street, 4th Floor  
Denver, CO 80294  
(303) 844-6163 (FTS) 564-6163

Region IX

American Samoa, Arizona, California, Guam,  
Hawaii, Nevada, Trust Territory of the Pacific  
Islands, Commonwealth of Northern Mariana  
Islands

Federal Office Building  
50 United Nations Plaza, Room 327  
San Francisco, CA 94102  
(415/FTS) 556-5810

Region X

Alaska, Idaho, Oregon, Washington

2201 Sixth Avenue, M.S. RX20  
Seattle, WA 98121  
(206) 442-0430 (FTS) 399-0430



2. Department of Labor

Occupational Safety and Health Administration  
 Room South 2316  
 200 Constitution Ave., NW.  
 Washington, DC 20210  
 (202) 523-8148

Establishes and enforces health and safety standards in the health care workplace. Trains health and safety inspectors in applying OSHA guidelines.

3. Office of Personnel Management

Personnel Systems and Oversight Group  
 Office of Employee and Labor Relations  
 Office of Personnel Management  
 1900 E Street, NW.  
 Room 7412  
 Washington, DC 20415  
 (202) 606-1269 (FTS) 266-1269

Establishes personnel management policies for the Federal sector. Administers the Federal employee pay, retirement, and benefits programs. Provides technical assistance and support to agencies in administering their personnel programs.

B. American Red Cross

American Red Cross  
 AIDS Public Education Program  
 1709 New York Ave., NW.  
 Suite 208  
 Washington, DC 20006  
 (202) 639-3223  
 or call local chapter

Provides educational material on AIDS/HIV, especially questions regarding blood donations and the general safety of the nation's blood supply.

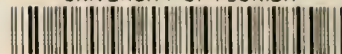
C. Other Resources

There are many community-based treatment, educational and advocacy groups involved in AIDS/HIV issues which are too numerous to list but can provide valuable assistance and information to an agency's AIDS programs. In addition to this resource, each state and local public health department will have an AIDS/HIV program or coordinator.





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